

AMENDED IN ASSEMBLY MARCH 24, 2008

AMENDED IN ASSEMBLY JUNE 21, 2007

SENATE BILL

No. 579

Introduced by Senator Wiggins

February 22, 2007

An act to ~~add Sections 20136 and 31540 to amend Section 31663.15 of, and to repeal Sections 31663.2 and 31680.9 of, the Government Code, relating to public employees' retirement , and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 579, as amended, Wiggins. ~~Public employees' retirement. County Employees Retirement Law of 1937.~~

The County Employees Retirement Law of 1937 provides a comprehensive set of rights and benefits for county and district employees who are members of a retirement system subject to that law. Certain members, who come within the definition of a safety member, qualify for greater benefits than other members upon retirement calculated on the basis of years of service. The law authorizes the mandatory retirement of certain safety members, including firefighters, on the basis of age. However, in the County of Los Angeles a safety member may be permitted to continue to serve, or may be reinstated after retiring, if a physician certifies that the member is capable of performing his or her assigned duties, as specified, pursuant to a provision operative upon the adoption of a resolution by the board of supervisors. The law also provides that the resolution adopted by the board of supervisors may designate a date, which may be prior to the date of the resolution or the effective date of these provisions, upon which date the resolution shall be operative in Los Angeles County.

This bill would also provide that the resolution may additionally provide that a firefighter member who retired on the basis of age prior to April 1, 2007, is not eligible to reinstate from retirement, as specified.

Existing law specifically requires the Fire Chief of Los Angeles who was employed as fire chief on May 1, 2005, to retire on April 1, 2009. Existing law prohibits that person and specified other safety members, including other county firefighters, from applying for reinstatement pursuant to the provisions described above.

This bill would repeal those provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~(1) The Public Employees' Retirement Law provides that the management and control of the Public Employees' Retirement System is vested in the Board of Administration of that retirement system. That law requires the board to perform specified tasks, including, but not limited to, keeping in convenient form data necessary for the actuarial valuation of the retirement system, adopting mortality, service, and other actuarial tables, and adopting rules for conducting structured preretirement information seminars. The federal Pension Protection Act of 2006 provides that the gross income of a retired public safety officer, as defined, does not include a direct distribution from an eligible retirement plan to a provider of an accident or health insurance plan or a qualified long-term care insurance contract if that distribution is payable for and does not exceed the amount paid by the retired public safety officer for qualified health insurance premiums, as specified.~~

~~This bill would require, if a member separates from service as a public safety officer, as defined, and he or she retires from that public safety officer position, either for disability or based upon years of service after attaining the normal retirement age, the Board of Administration of the Public Employees' Retirement System to certify to the Internal Revenue Service or a health insurance plan provider that the member is a retired public safety officer, as specified.~~

~~(2) Under the County Employees Retirement Law of 1937, the management of a retirement system subject to that law is vested in the board of retirement. That law permits the board of retirement to perform specified tasks, including, but not limited to, establishing records management procedures and correcting errors in the calculation of a retired member's monthly allowance or any other benefit. The federal Pension Protection Act of 2006 provides that the gross income of a retired public safety officer, as defined, does not include a direct~~

distribution from an eligible retirement plan to a provider of an accident or health insurance plan or a qualified long-term care insurance contract if that distribution is payable for, and does not exceed the amount paid by the retired public safety officer for, qualified health insurance premiums, as specified.

~~This bill would permit the board of retirement of a retirement system subject to the County Employees Retirement Law of 1937, in order to implement the federal Pension Protection Act of 2006, to determine the normal retirement age of a member, if a member is a public safety officer, consistent with federal tax law, and if a specified provider is a health insurance plan provider, as specified. The bill would also permit the board of retirement to change the determination of the normal retirement age in order to comply with any rules or regulations of the Internal Revenue Service.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~yes~~^{no}. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31663.15 of the Government Code is
2 amended to read:
3 31663.15. (a) Sections 31662.4, 31662.6, 31662.8, and 31663
4 shall not apply to a person who is an active safety member
5 described in Section 31469.3 or 31470.4 if a physician employed
6 or approved by the county certifies that the safety member is
7 capable of performing his or her assigned duties pursuant to
8 standards set forth by the member's employer.
9 (b) This section shall also apply to a member who reinstates
10 from retirement pursuant to Section 31680.8.
11 (c) This section applies only to a county of the first class, as
12 defined by Section 28020, as amended by Chapter 1204 of the
13 Statutes of 1971, and Section 28022, as amended by Chapter 43
14 of the Statutes of 1961.
15 (d) This section shall not be operative in any county until the
16 board of supervisors shall, by resolution adopted by a majority
17 vote, make this section and Section 31680.8 applicable in the
18 county. The resolution of the board of supervisors may designate
19 a date, which may be prior to the date of the resolution or the
20 effective date of this section, upon which the resolution and this
21 section shall be operative in the county, *and may further provide*

1 *that a member, described in Section 31470.4, who retired pursuant*
2 *to Section 31662.4 or 31662.6, prior to April 1, 2007, is not eligible*
3 *to reinstate from retirement pursuant to Section 31680.8.*

4 *SEC. 2. Section 31663.2 of the Government Code is repealed.*

5 ~~31663.2. (a) (1) Sections 31662.4 and 31662.6 shall not apply~~
6 ~~to the fire chief of a fire district who is a safety member and whose~~
7 ~~primary duties are administrative, if the fire chief was employed~~
8 ~~as fire chief on May 1, 2005.~~

9 ~~(2) A fire chief who is exempted from the requirements of~~
10 ~~Sections 31662.4 and 31662.6, pursuant to paragraph (1), shall~~
11 ~~retire before April 1, 2009, and, subsequent to the operative date~~
12 ~~of this section, that fire chief shall not receive a salary increase~~
13 ~~that is disproportionate to any salary increase granted to other~~
14 ~~department heads of the same jurisdiction at the same time.~~

15 ~~(b) This section applies only to a county of the first class, as~~
16 ~~defined by Sections 28020 and 28022.~~

17 ~~(c) This section shall not be operative in any county until the~~
18 ~~board of supervisors, by resolution adopted by a majority vote,~~
19 ~~makes this section applicable in the county.~~

20 ~~(d) This section shall become inoperative on April 1, 2009, and,~~
21 ~~as of January 1, 2010, is repealed, unless a later enacted statute,~~
22 ~~that is enacted before January 1, 2010, deletes or extends the dates~~
23 ~~on which it becomes inoperative and is repealed.~~

24 *SEC. 3. Section 31680.9 of the Government Code is repealed.*

25 ~~31680.9. (a) The application of Section 31680.8 shall be~~
26 ~~limited by this section. Section 31680.8 shall not apply to either~~
27 ~~of the following:~~

28 ~~(1) A safety member who was required to retire as described in~~
29 ~~Section 31663.2.~~

30 ~~(2) A member who retired as a safety member described in~~
31 ~~Section 31470.4 or 31470.6.~~

32 ~~(b) This section shall apply only to a county of the first class as~~
33 ~~described in Section 28020.~~

34 *SEC. 4. This act is an urgency statute necessary for the*
35 *immediate preservation of the public peace, health, or safety within*
36 *the meaning of Article IV of the Constitution and shall go into*
37 *immediate effect. The facts constituting the necessity are:*

38 *In order to ensure that those safety members of the County of*
39 *Los Angeles who are currently prohibited from applying for*
40 *reinstatement after being required to retire on the basis of age*

1 *may apply for reinstatement as soon as possible, it is necessary*
2 *that this act take effect immediately.*

3 SECTION 1. ~~Section 20136 is added to the Government Code,~~
4 ~~to read:~~

5 20136. ~~(a) For purposes of this section, the following~~
6 ~~definitions shall apply:~~

7 (1) ~~“Health insurance plan provider” means the provider of an~~
8 ~~accident or health insurance plan or a qualified long-term care~~
9 ~~insurance contract as described in Section 402(l)(5)(A) of Title 26~~
10 ~~of the United States Code.~~

11 (2) ~~“Normal retirement age” means the age considered to be a~~
12 ~~normal retirement age for purposes of Section 402(l)(3)(B) of Title~~
13 ~~26 of the United States Code.~~

14 (3) ~~“Public safety officer” means a member of this system who~~
15 ~~is in a safety member classification as described in subdivision (b)~~
16 ~~of Section 20371.~~

17 (4) ~~“Qualified health insurance premiums” means premiums~~
18 ~~for coverage of a retired public safety officer, his or her spouse,~~
19 ~~and dependents, by a health insurance plan provider, as described~~
20 ~~in Section 402(l)(3)(D) of Title 26 of the United States Code.~~

21 (b) ~~If a member separates from service as a public safety officer,~~
22 ~~and he or she retires from that public safety officer position, either~~
23 ~~for disability or based upon years of service after attaining the~~
24 ~~normal retirement age, the board shall, in connection with the~~
25 ~~payment of qualified health insurance premiums, certify to the~~
26 ~~Internal Revenue Service or a health insurance plan provider that~~
27 ~~the member is a retired public safety officer.~~

28 SEC. 2. ~~Section 31540 is added to the Government Code, to~~
29 ~~read:~~

30 31540. ~~(a) The board may, in order to implement the provisions~~
31 ~~of the federal Pension Protection Act of 2006 as described in~~
32 ~~Section 402(l) of Title 26 of the United States Code, do all of the~~
33 ~~following:~~

34 (1) ~~Determine if a member is a public safety officer, consistent~~
35 ~~with federal tax law.~~

36 (2) ~~Determine if a provider of an accident or health insurance~~
37 ~~plan or a qualified long-term care insurance contract is a health~~
38 ~~insurance plan provider.~~

39 (3) ~~Determine the normal retirement age of a member by the~~
40 ~~age specified in the name of the benefit formula under Article 7.5~~

1 ~~(commencing with Section 31660) or Article 8 (commencing with~~
2 ~~Section 31670), that is applicable to that member.~~
3 ~~(b) The board may change its determination of normal retirement~~
4 ~~age as described in paragraph (3) of subdivision (a) in order to~~
5 ~~comply with any rules or regulations of the Internal Revenue~~
6 ~~Service.~~

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